

§ 17.700

38 CFR Ch. I (7-1-01 Edition)

whenever the Secretary concludes that a waiver or suspension of compliance would be in the best interest of the Department of Veterans Affairs.

(Authority: 38 U.S.C. 7634(b))

(c) Compliance by a participant with a service or payment obligation will be considered impossible due to circumstances beyond the control of the participant if the Secretary determines, on the basis of such information and documentation as may be required, that the participant suffers from a physical or mental disability resulting in permanent inability to perform the service or other activities which would be necessary to comply with the obligation.

(Authority: 38 U.S.C. 7634(b))

(d) Waivers or suspensions of service or payment obligations, when not related to paragraph (c) of this section, and when considered in the best interest of the Department of Veterans Affairs, will be determined by the Secretary on an individual basis.

(Authority: 38 U.S.C. 7634(b))

[47 FR 10810, Mar. 12, 1982]

VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM

SOURCE: 59 FR 28265, June 1, 1994, unless otherwise noted.

§ 17.700 Purpose and scope.

(a) *General.* The VA Homeless Providers Grant and Per Diem Program is authorized by sections 3 and 4 of Pub. L. 102-590, the Homeless Veterans Comprehensive Service Programs Act of 1992. The VA Homeless Providers Grant and Per Diem Program is designed to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans. Section 3 of the Act provides for grants to eligible entities of up to 65 percent of the estimated cost to construct, expand, remodel or alter existing buildings; to acquire facilities for use as service centers, transitional housing or other facilities to serve homeless veterans; or to procure vans

to provide transportation for and support outreach to homeless veterans. A grant may not be used to support operational costs. In addition, § 4 of Pub. L. 102-590 authorizes VA to provide to a recipient of a grant under § 3 (or entity eligible for such a grant as described in § 17.716 of this part) per diem payments for homeless veterans whom VA has referred to that entity; or for whom VA has authorized the provision of services. In lieu of per diem payments, VA may provide in-kind assistance through services of VA employees and the use of other VA resources. This program does not provide for funding to acquire buildings located on VA-owned property. The program does provide for grant funds to be used to construct, expand or remodel buildings located on VA-owned property.

(b) *Components.* (1) Grants may be used for the three components described in § 17.702:

(2) Grant recipients or eligible entities may apply for per diem payments or receive in-kind assistance through VA as described in § 17.715.

(3) Applicants may apply for a grant for more than one component described in § 17.702 and/or per diem payments.

[59 FR 28265, June 1, 1994, as amended at 60 FR 10504, Feb. 27, 1995; 62 FR 6121, Feb. 11, 1997]

§ 17.701 Definitions.

As used in this part:

Area or community means a political subdivision or contiguous political subdivisions (such as precinct, ward, borough, city, county, State, Congressional district, etc.) with a separately identifiable population of homeless veterans.

Capital lease means a lease that satisfies one of the following criteria:

(1) The lease transfers ownership to the lessee at the expiration of the lease term.

(2) The lessor bears no risk.

(3) The term of the lease exceeds 75 percent of the economic life of the asset.

(4) The lease contains a bargain purchase option.

(5) The present value of lease payments is equal to or greater than 90 percent of the fair market value of the asset.

Department of Veterans Affairs

§ 17.701

Eligible entity means a public or non-profit private entity with the capacity to effectively administer a grant under this section; which has demonstrated that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications and schedule submitted by the applicant; and which has agreed to, and has demonstrated the capacity to, meet the applicable criteria and requirements of the grant program.

Expansion of an existing building means an addition to an existing structure that does not increase the floor area by more than 100 percent.

Federally recognized Indian tribal government includes the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

Homeless or homeless individual (1) includes:

(i) An individual who lacks a fixed, regular and adequate nighttime residence; and

(ii) An individual who has a primary nighttime residence that is—

(A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(B) An institution that provides a temporary residence for persons intended to be institutionalized; or

(C) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) The term “homeless” or “homeless individual” does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law. An individual on probation, parole or under electronic custody is not considered “imprisoned or otherwise detained”.

New construction means the building of a structure where none existed or an

addition to an existing structure that increases the floor area by more than 100 percent.

New program/new component of an existing program means a proposed program of supportive services, or a proposed addition of supportive services to an existing program, which services are not currently being provided by the entity proposing it, and for which there is a demonstrated need in the area or community served by that entity.

Nonprofit organization means a private organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(1) Have a voluntary board;

(2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(3) Practice nondiscrimination in the provision of supportive housing and supportive services assistance.

Operating costs means expenses incurred in operating supportive housing, supportive services or service centers with respect to:

(1) Administration (including staff salaries; costs associated with accounting for the use of grant funds, preparing reports for submission to VA and obtaining program audits; and similar costs related to administering the grant after the award), maintenance, repair and security for the supportive housing;

(2) Van or building rent (except under capital leases), utilities, insurance, fuel, furnishings, and equipment;

(3) Conducting on-going assessments of supportive services provided for and needed by participants and the availability of such services;

(4) Relocation assistance under § 17.730 of this part, including payments and services; and

(5) Other costs associated with operating the supportive housing.

Outpatient health services means outpatient health care, outpatient mental health services, outpatient alcohol and

§ 17.701

38 CFR Ch. I (7-1-01 Edition)

or substance abuse services, and case management.

Participant means a person who receives services provided at sites funded with assistance provided under this part.

Project means a structure or structures (or portion of such structure or structures) acquired, rehabilitated, or constructed with assistance provided under this part. A project may be used to provide supportive housing or supportive services in single room occupancy dwelling units which may or may not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing.

Recipient means any governmental or nonprofit entity that receives assistance under this part.

Rehabilitation means the improvement or repair of an existing structure. Rehabilitation does not include minor or routine repairs.

Secretary means the Secretary of Veterans Affairs.

Seriously mentally ill means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently. This may include an impairment related to substance (alcohol and/or drug) abuse.

Service center means a project which provides the supportive services specified at §17.724(k) to homeless veterans for a minimum of 40 hours per week over a minimum of five days per week as well as on an as-needed, unscheduled basis.

Single room occupancy (SRO) housing means a unit for occupancy by one person, which need not but may contain food preparation or sanitary facilities, or both.

Sponsor means a public or nonprofit organization which owns or leases dwelling units in buildings acquired and/or renovated with funds from this grant program, and which makes such units available to eligible homeless veterans.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not

include any public and Indian housing agency under United States Housing Act of 1937.

Supportive housing means housing in conjunction with which supportive services are provided for homeless veterans where:

(1) The housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located, and the requirements of this part; and

(2) The housing is:

(i) Transitional housing; or

(ii) Is, or is a part of, a particularly innovative project for, or alternative method of, meeting the immediate and long-term needs of homeless veterans.

Supportive services (1) Means services, which may be designed by the recipient or program participants, that

(i) address the special needs of homeless veterans to be served by the project, and

(ii) provide appropriate services or assist such persons in obtaining appropriate services.

(2) Supportive services include:

(i) Outreach activities;

(ii) Providing food, nutritional counseling, counseling, health care, mental health treatment, alcohol and other substance abuse services, case management services;

(iii) Establishing and operating child care services for dependents of homeless veterans;

(iv) Providing supervision and security arrangements necessary for the protection of residents of supportive housing and for homeless veterans using the housing or services;

(v) Providing assistance in obtaining permanent housing;

(vi) Providing education, employment counseling, job training, establishing and operating an employment assistance program;

(vii) Providing assistance in obtaining other Federal, State and local assistance available for such residents including mental health benefits, employment counseling, veterans' benefits, medical assistance, and income support assistance such as Supplemental Security Income benefits, Aid to Families with Dependent Children,

Department of Veterans Affairs

§ 17.703

General Assistance, Food Stamps, etc.; and

(viii) Providing housing assistance, legal assistance, advocacy, transportation, and other services essential for achieving and maintaining independent living.

(ix) Inpatient acute hospital care does not qualify as a supportive service.

Transitional housing means housing that will facilitate the movement of homeless veterans and their dependents to permanent housing within 24 months, or within a longer period as described in § 17.724(i) of this part.

Unit of general local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

Veteran with disabilities means a veteran with a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that such ability could be improved by more suitable housing conditions. This may include a disability related to substance (alcohol and/or drug) abuse. A veteran may be considered to have a disability regardless of whether VA has or has not awarded compensation or a pension for the disability.

[59 FR 28265, June 1, 1994, as amended at 60 FR 10504, Feb. 27, 1995]

§ 17.702 Types and uses of assistance.

(a) *Grant assistance.* Grant assistance is available to:

(1) Construct structures to establish new supportive housing facilities, new facilities to provide supportive services, or to establish service centers;

(2) Acquire, expand and remodel/alter structures to establish new supportive housing facilities, new facilities to provide supportive services, or to establish service centers; and

(3) Procure vans to provide transportation for the purpose of providing supportive services to homeless veterans.

(4) Applicants may apply for more than one type of assistance.

(b) *Limitation on non-veteran participants.* Up to 25 percent of services available in projects funded through this grant program may be provided to participants who are not receiving those services as veterans.

(c) *Structures used for multiple purposes.* Structures funded through this grant program that are used to provide supportive housing, supportive services, or used as service centers may also be used for other purposes, except that assistance under this part will be available only in proportion to the use of the structure for supportive housing, supportive services, or as a service center.

(d) *Maximum amount of grant.* The amount of a grant under this part may not exceed 65 percent of the cost of acquisition, rehabilitation, acquisition and rehabilitation, construction or procurement.

§ 17.703 Grants for acquisition and rehabilitation.

(a) *Use.* VA will grant funds to recipients to:

(1) Pay a portion of the cost of the acquisition of real property selected by the recipients for use in the provision of supportive housing or supportive services, or to establish service centers, including the repayment of any outstanding debt on a loan made to purchase property that has not been used previously for supportive housing, supportive services, or service centers; and

(2) Pay a portion of the cost of rehabilitation of structures, including cost-effective energy measures, selected by the recipients to provide supportive housing or supportive services or to establish service centers.

(b) If grant funds are proposed to be used for acquisition or rehabilitation, the applicant must demonstrate that the costs associated with acquisition or